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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,251	09/07/2001	Bernard Vallee	1490	2488

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EXAMINER

BURNHAM, SARAH C

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,251

Applicant(s)

VALLEE, BERNARD

Examiner

Sarah C. Burnham

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the intermediate part, first presented in dependent claim 3, line 2 must be shown **in addition to** the arm, first presented in claim 1, line 12 or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-5, 8 and 10-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With respect to claim 1, the specification does not reasonably provide enablement for an arm mounted so that it can slide in a rail secured to said seat. While Figure 3 may disclose a slide rail arrangement, it is unclear how this sliding rail

arrangement functions in conjunction with the pivoting motion shown in Figures 1 and 2. It is not shown how seat (20) can firstly pivot on axle (24), which is carried by arm (22), and slide by way of rail arrangement (54)(56) with respect to arm (22). This may (or may not) be possible if pivot (24) is carried on rail (54), but this fact was not originally disclosed.

With respect to claim 3, the specification does not reasonably provide enablement for a horizontal axle that is carried by an arm (claim 1, line 12) and carried by an intermediate part (claim 3, line 22). Element (22) can serve as either an arm or an intermediate part, but cannot serve as both.

With respect to claim 5, the specification does not reasonably provide enablement for an intermediate part constituting a rail collaborating with the seat. It is not understood how seat (20) can pivot about horizontal axle (24) and slide along rail (54) of intermediate part (22). It appears as if seat (20) would have to detach in some way from horizontal axle (24) in order to slide along rail (54) and therefore would not be able to pivot about horizontal axle (24). On page 8, lines 15-26, Applicant describes the relationship between rail (54), track (56) and axle (24). It is unclear how seat (20) can pivot about axle (24) and slide along rail (54).

Claims 2, 4, 8 and 10-11 are rejected as being dependent upon a rejected base claim.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words/phrases lack sufficient antecedent basis:

- the angle (amended claim 5, line 4)
- the other end (claim 1, lines 10-11)

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-4, 8 and 10 are rejected under 35 U.S.C. 103(a) as being anticipated by Sherman (3,594,037) in view of Cluff (1,231,129). Sherman reveals a cabin attendant chair with a seat (20), an underframe (10) with a longitudinal axis extending from the upper right hand corner of underframe (10) in Figure 2 to the lower left hand corner, a backrest (46) and a fixed horizontal axle (24). Seat (20) comprises a first part (26) and a second part (32)(38). The second part (32)(38) is received through a rectangular opening located above panel (18) within underframe (10). The length of the portion of the second part (32)(38) received within underframe (10) is smaller than the diameter of underframe (10) given that no portion of second part (32)(38) extends out the backside of underframe (10). Underframe (10) contains a gas strut (40). Horizontal

axle (24) is carried by an intermediate part in the form of an arm (50) fixed to the longitudinal axis of underframe (10) and rotatable about pivot point (30). Figure 2 reveals by means of phantom lines how the distance from horizontal axle (24) to the longitudinal axis of underframe (10) is variable.

The longitudinal axis lies parallel to the backrest (46) and connects the upper right corner of under frame (10) in Figure 2 with the lower left corner of underframe (10). Given that the figure reveals an underframe (10) whose width is approximately equal to one-fifth its height, the angle of the longitudinal axis is approximately 11° ($\tan^{-1}(1/5) = 11.3^\circ$). The underframe (10) has a first part defined by side supports (12) and a second part (56)(54) telescopically received within the first part defined by side supports (12). The first part defined by side supports (12) takes up the vertical forces exerted by an occupant sitting on seat (20). The second part (56)(54) takes up the horizontal forces exerted by a seat occupant resting their head against the second part (56)(54).

As disclosed above, Sherman shows all claimed elements except a rail secured to the seat to allow an arm to slide.

Cluff teaches the use of rails (26) secured to seat (12). Arms (29) slide to different positions within rails (26) depending upon the angle of the seat.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the cabin attendant seat of Sherman with the teachings of Cluff. Incorporating a rail into the side of Sherman's cabin attendant seat would allow the horizontal axle to move based on the angle of the seat, therefore providing support at a variety of seat angles and increasing the comfort of the user.

3. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (3,594,037) in view of Cluff (1,231,129), as applied to claim 1 above, and further in view of Vander Stel et al. (5,026,118). As described above, Sherman, as modified, discloses all claimed elements except a distance between the longitudinal axis and the horizontal axle in the range of 2 to 15 cm and a rail.

Vander Stel et al. reveals a foundation (37) that forms a "two inch deep basket" (column 3, line 6). The back of foundation (37) corresponds with the longitudinal axis of the seating unit. Figure 3 reveals a horizontal axle (35) which is located approximately twice the width of basket (37) from the longitudinal axis. Horizontal axle (35) is therefore approximately 4 inches (6.16 cm) from the longitudinal axis. Vander Stel et al. also reveals a rail (60)(61)(63) which alters the position of horizontal axle (35) with respect to seat (17) based on the angle at which element (41) is deployed.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the cabin attendant seat of Sherman, ad modified, with the teachings of Vander Stel et al. The modification of limiting a distance between the longitudinal axis and the horizontal axle to a range of 2-15 cm would ensure that the seat has a very narrow profile and can be installed in cramped areas such as airplane galleys. The inclusion of a rail would allow for greater seat adjustment capabilities and therefore more comfort for the seat occupant.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (3,594,037) in view of Cluff (1,231,129 as applied to claim 1 above, and

further in view of Betherum (928,929). As disclosed above, Sherman, as modified, reveals all claimed elements except a work surface.

Betherum teaches the incorporation of a work surface (14) within a telescopically received second element (13) of an underframe (5).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the cabin attendant seat of Sherman, as modified, with the teachings of Betherum. The incorporation of a work surface on the backside of Sherman's cabin attendant seat would provide a convenient additional surface area for preparing food for flight passengers.

Response to Amendment/Arguments

5. The amendment filed on August 28, 2003 has been considered in its entirety and remaining issues are detailed in the sections above.

Applicant argues that in view of Figure 3 and the description thereof on page 8, the disclosure is sufficiently enabling for the slide rail arrangement working in conjunction with the pivoting arrangement. The Examiner maintains the disclosed structure does not provide for both sliding motion and pivoting motion. It is not shown how seat (20) can firstly pivot on axle (24), which is carried by arm (22), and slide by way of rail arrangement (54)(56) with respect to arm (22). This may (or may not) be possible if pivot (24) is carried on rail (54), but this fact was not originally disclosed. Therefore, the 35 U.S.C. 112 1st rejection is maintained for claim 5. Also, the Examiner has now recognized that the same reasoning holds true for newly amended claim 1.

Due to this change in rejection, and the reinstatement of the Cluff reference, this action is non-final.

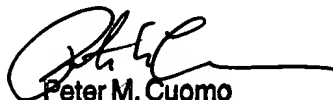
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-1113.

SCB
September 17, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600